Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	
Comprehensive Review of Universal Service Fund Management, Administration and Oversight	)))	WC Docket No. 05-195
	)	
Federal-State Joint Board on Universal Service	))	CC Docket No. 96-45
	)	
Schools and Libraries Universal Service Support Mechanism	))	CC Docket No. 02-6
	)	
Rural Health Care Support Mechanism	)	WC Docket No. 02-60
	)	
Lifeline and Link-Up	)	WC Docket No. 03-109
	)	
Changes to the Board of Directors for the National Exchange Carrier Association, Inc.	))	CC Docket No. 97-21

REPLY COMMENTS of the
NATIONAL EXCHANGE CARRIER ASSOCIATION, INC.

December 19, 2005

Summary

Most commenters in this proceeding agree existing universal service fund (USF) administrative structures, including current rules governing the USF Administrator and rules governing submission of High Cost Fund (HCF) data, should remain in place pending long-term reform of USF mechanisms.

A number of commenters, including NECA, made constructive suggestions for improvements in certain administrative processes that should be considered carefully by the Commission. These include proposals to:

- increase the amount of payment detail provided to program beneficiaries and their agents;
- add transparency to administrative processes, including an opportunity for program participants and their agents to comment on proposed procedure changes;
- unify true-up procedures for HCF data submissions;
- add a "yellow light" warning period before "red light" holds are incorrectly imposed on beneficiaries mistakenly believed to be delinquent in payments to the government;
- avoid the need for time-consuming waiver proceedings or the imposition of draconian penalties on program participants for making ministerial errors in data submissions; and ,
- review the Administrator's performance on a periodic basis via effective and efficient mechanisms such as Type II SAS-70 reports and surveys of program participants.

Commenters also strongly agree audits of HCF recipients must be reasonably targeted to high risk areas and take into account existing data review processes. Rate of return incumbent local exchange carriers (ILECs), in particular, are subject to multiple layers of review from internal auditors, external independent auditors, other government agencies such as the Rural Utilities Service (RUS), and NECA in fulfillment of its

responsibilities under the Commission's Part 36 and Part 69 rules. The Commission should rely to the extent possible on such reviews and avoid requiring rate of return telephone companies to respond to redundant audits. Commenters also suggest audit burdens should be fairly distributed between incumbent local exchange carriers and other recipients of HCF support.

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The National Exchange Carrier Association (NECA) submits this Reply in response to initial comments filed on October 18, 2005 in the above-captioned proceeding.

I. INTRODUCTION

The Commission's *Further Notice*[1] initiated a broad inquiry into the management and administration of the Universal Service Fund (USF), as well as the Commission's

[1] Comprehensive Review of Universal Service Fund Management, Administration and Oversight, WC Docket No. 05-195, *Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking*, 70 Fed. Reg. 41658 (2005) ("*Further Notice*").

oversight of the USF and the USF Administrator.[2] The *Further Notice* also sought comment on ways to deter waste, fraud, and abuse through audits of USF beneficiaries.

NECA's comments described the administrative relationships between existing high cost fund (HCF) USF mechanisms and the interstate access charge cost recovery system, and showed how these two vitally-important cost recovery mechanisms function in tandem to assure rate of return telephone companies are able to offer modern and affordable telecommunications services to predominantly rural customers throughout the United States and its territories. NECA also explained how current access charge and HCF data review processes work, and how these processes help assure the integrity of HCF data without detracting from the Administrator's or the FCC's ability to validate HCF data independently.[3] NECA also offered several suggestions to promote the timely and efficient distribution of HCF amounts to recipients, reduce administrative burdens on program participants, and improve the efficient and timely interchange of data between the Administrator and NECA.

In this Reply, NECA shows most commenters agree existing USF Administrative structures, including current Part 36 rules governing submission of HCF data, should remain in place pending longer-term reform of universal service mechanisms. NECA responds herein to suggestions by the Universal Service Administrative Company (USAC) and other interested parties for improvements in certain administrative processes, and suggestions for periodic review of the Administrator's performance.

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[2] *Id.* at ¶ 1. The *Further Notice* generally asks for comment on ways to simplify the process for applying for USF support, speeding the disbursement process, simplifying the billing and collection process, and addressing issues relating to the Universal Service Administrative Company (USAC), the USF Administrator appointed by the Commission pursuant to its Part 54 Universal Service rules.

[3] NECA at 23. NECA's comments also included detailed information on processes it uses to review both high cost loop and pooling data submissions. *Id.* at Appendix A.

Finally, NECA shows commenters strongly agree audits of HCF recipients must be reasonably targeted to high risk areas and take into account existing data review processes.

II. EXISTING USF ADMINISTRATION STRUCTURES SHOULD REMAIN IN PLACE.

Comments filed in this proceeding make clear existing USF Administrative structures are effective and should remain in place. The Organization for the Protection and Advancement of Small Telecommunications Companies and the Western Telecommunications Alliance (OPASTCO and WTA), for example, stated "[t]he Commission should not seek to replace the permanent designated administrator of the USF with another type of administrative structure or entity at this time."[4] Fred Williamson & Associates (FWA) suggested "[r]eplacing USAC does not solve any of the Universal Service Fund (USF) management issues."[5] Qwest emphasized the drawbacks associated with seeking an alternative at this time:

> USAC is the appropriate entity to continue to serve as Administrator. There is no significant public interest benefit in seeking competitive bids to replace USAC with another entity. Such a process would take too long to set up and would lead to a lack of predictability in the administration of the USF. Moreover, USAC already has substantial experience with administering the USF and has displayed substantial improvement in its capabilities over time.[6]

Commenters also generally agree existing rules and structures regarding HCF data collection, support calculations and fund disbursements should be maintained. As National Telecommunications Cooperative Association (NTCA) stated, "[t]he existing

[4] OPASTCO and WTA at 15.

[5] FWA at 2.

[6] Qwest at 8.

dual administrative structure of NECA providing cost data, and the USAC handling the administrative tasks associated with the high-cost universal service and low-income programs, remains functional and appropriate, so the Commission should not alter significantly this dual structure."[7]

GVNW likewise noted "[i]n light of the interrelationship between universal service funding and access charges, the Commission should encourage the USF administrator to work closely and cooperatively with the NECA to ensure the settlement process is smooth and seamless. There is a benefit to the dual role NECA plays with regard to providing the cost data, and USAC handling the administrative portion of the USF programs."[8]

Alexicon similarly commended the efforts of USAC and NECA "for their diligent efforts in establishing and maintaining the USF programs' abilities to assist the ILECs in the vital connection of rural Americans to the PSTN."[9] Alexicon expressed particular appreciation for "ongoing efforts and refinements toward the streamlining and verification processes, relative to the data collection and reporting that NECA, in conjunction with the Administrator and other parties, performs that allows for the timely annual filing and approval of USF funding." [10]

USAC, on the other hand, suggests existing rules governing HCL data collections and calculations be revised so as to transfer responsibility for cost data collection functions from NECA to the Administrator. In USAC's view, this change is necessary because it

[7] NTCA at 3.

[8] GVNW at 12.

[9] Alexicon at 17.

[10] *Id.* at 17-18.

currently cannot certify whether NECA collected data or made calculations in conformance with required procedures or controls.[11]

NECA explained in its comments its procedures are subject to annual reviews by NECA's independent auditors pursuant to Statement of Auditing Standards (SAS) 70, to audits by USAC's internal auditors, agreed-upon procedures audits by USAC's external auditors, survey reviews by the FCC's Office of Inspector General, as well as audits by the Commission's external auditors.[12] NECA also explained, contrary to statements in the *Further Notice*, the Administrator and the Commission receive all high cost loop data used to calculate cost per loop and HCL expense adjustment amounts for ILECs.[13] These data enable the Administrator, the Commission, or any interested party to independently replicate all of NECA's calculations of individual study area loop cost and expense adjustments, as well as national average cost per loop amounts. The Administrator also receives all data underlying optional quarterly USF submissions.[14] Thus, revising or changing existing Part 36 data collection and computation rules would not in any way improve the Administrator's ability to validate HCL data.

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[11] USAC at 152, CTIA at 7, likewise suggests that changes should be made in current data collection processes, asserting that "NECA processes the [HCL] information and performs the calculations, but is not required to provide any supporting documentation to USAC."

[12] NECA at 25-27.

[13] *Id.*

[14] The FCC has acknowledged receipt of this data in the 2004 Federal State Joint Board Monitoring Report released October 2004 ("Each year NECA submits detailed account data used to calculate the unseparated revenue requirement per loop for each study area that settles on a cost basis, and total attributed revenue requirements for study areas that settle on an average schedule basis. In its filings since 1993, in addition to submitting such information for the latest year, NECA also submitted revised information for the four preceding years. The detailed account data are not reported here, but the most recent revision of the data for each year since 1988 is available in electronic form on the FCC-State Link web site." 2004 Federal State Joint Board Monitoring Report at 3-13.<http://www.fcc.gov/Bureaus/Common_Carrier/Reports/FCC-State_Link/Monitor/mr04-0.pdf >.

NECA's comments also showed existing HCL data collection processes are tightly integrated with other types of ILEC cost and demand data collections and extensive procedures are in place to review such data.[15] OPASTCO and WTA recognize these procedures "make it most efficient for NECA to continue to collect and validate all [HCL] data."[16] Both GVNW and NTCA point out NECA review processes add confidence in the integrity of these data.[17] If NECA review procedures were made optional (as would be the case under USAC's proposal to allow companies to designate NECA as filing agent), confidence in the integrity of this information would likely decrease rather than increase.

Some comments go beyond the administrative scope of this proceeding and propose substantive changes to existing USF programs. These include, for example, calls for consolidation of existing HCF programs into one mechanism, replacement of existing cost-based support mechanisms for rate of return companies with some type of forward-looking mechanism, requirements that holding companies consolidate separate study areas for purposes of computing HCF support, etc. These proposals have been advanced in other proceedings, most notably in the context of the Federal-State Joint Board's review of various "basis of support" issues, and should not be considered herein.[18]

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[15] NECA at 25-27.

[16] OPASTCO and WTA at 11.

[17] GVNW at 18, NTCA at 4.

[18] USAC's comments include a suggestion that as a part of this comprehensive rulemaking process, the Commission consider revisiting whether USAC should remain a technical subsidiary of NECA. (USAC at 51-52) Should the Commission decide to consider this issue as part of this proceeding, NECA would work cooperatively with the Commission and USAC to implement resulting changes in the current corporate relationship between administrators.

III. IMPROVEMENTS TO CERTAIN ADMINISTRATIVE PROCESSES ARE NECESSARY

While as noted above, the comments generally demonstrate support for keeping existing USF Administrative structures in place, they also acknowledged certain administrative processes could be improved. The following six process improvements garnered substantial support:

A. More Detailed Information on Monthly USF Support Payments

NECA's comments suggested program beneficiaries be given access to the details of calculations affecting their universal service payments, along with the opportunity to obtain explanations of these calculations.[19] A number of commenters echoed these views. Centennial, for example, requested payments be presented "in a format that would enable the service provider to reconcile the payment to the estimate of support found on USAC's website."[20] Century Tel agreed the Commission "should require USAC to provide supporting detail for adjustments to carriers' support payments." [21] The United States Telecom Association (USTelecom) called for more detail: "when the Fund's Administrator makes changes to a recipient's USF support, the Administrator should be required to provide supporting detail for the change."[22] Qwest likewise stated fund disbursements "should be more transparent and certain, adjustments should have explanations, and appeals handled more effectively. [23]

[19] NECA at 18

[20] Centennial at 2.

[21] CenturyTel at 7.

[22] USTelecom at 8.

[23] Qwest at 31.

NECA agrees the Commission should encourage the Administrator to provide adequate detail regarding high cost fund payments and adjustments to all fund recipients. These should include advance notice to carriers of any changes in an entity's eligibility, material changes in support payments, and any changes in factors affecting the calculation of support payments. As several commenters point out, fund recipients should also be offered an opportunity to be heard on a proposed change, where possible, before such changes take effect.[24]

The Commission should also make clear in this regard payment and adjustment information must be provided to companies' authorized agents as well. NTCA's comments point out, for example, the interrelationship between high-cost universal service funding and access charges requires "that the USF Administrator work closely with NECA to ensure settlement processes that are smooth and seamless for the benefit of the RLECs and their rural customers." NTCA explains NECA has a key role in administering access charges, per FCC rules, and therefore "should be provided with timely and complete access to information on USF payments to RLECs that participate in the NECA pools or use NECA for receipt of high-cost funds."[25] Similarly, GVNW stated

[24] As Centennial (at 9) points out, "certain changes in USAC's payment of support ought to generate an automatic notice and explanation to the support recipient" and that the recipient ought to be given an opportunity to be heard on the change. Centennial urged "the Commission to adopt rules that will require USAC to provide notice of a change in an entity's eligibility, a material change in support payment, and any changes in factors affecting the calculation of support payments. The notice should explain the action and offer the recipient an opportunity to be heard on the proposed change before it takes effect." CTIA (at 6) stated that "USAC should issue detailed invoices showing how support or contribution amounts were derived and consistent procedures for true-ups of support amounts, with opportunity for carriers to challenge adjustments."

[25] NTCA at 4. *See also* CenturyTel at 7.

the Administrator must also be able to work cooperatively with other designated entities, including NECA.[26]

These comments make clear the public interest would best be served if the Commission were to require the Administrator to provide adequate detail regarding high cost fund payments and adjustments, both to recipient companies *and* their authorized agents on a timely basis. The Commission should also direct the Administrator to provide summary monthly disbursement data to agents processing payments on behalf of multiple program beneficiaries.[27] Improving administrative reporting processes in this manner would satisfy many of the concerns raised by commenters regarding information flows and would reduce the need for subsequent corrections of settlement statements each month. More collaborative processes would benefit the Administrator as well, because potential problems could be identified and resolved earlier.

While existing disbursement procedures are complex, the record does not support moving to a single uniform disbursement system at this time. As GVNW states, such a mechanism "would result in unnecessary detail and would likely be confusing"[28] As OPASTCO and WTA explain, rate-of-return regulated rural ILECs

> have internal accounting processes in place to properly record the funds they receive from the various support mechanisms – HCLS, Interstate Common Line Support (ICLS), and Local Switching Support (LSS). Adopting a single, uniform disbursement process for all of these support mechanisms would require rural ILECs to expend limited resources modifying their accounting procedures. A change in the disbursement

[26] GVNW at 12.

[27] As NECA explained in its Comments (at 19), summary payment information would improve service to fund recipients and assist agents and the Administrator in identifying and resolving potential anomalies. This, in turn, may help resolve or even avoid many of the issues identified by commenters regarding the adequacy of payment information provided by the Administrator.

[28] GVNW at 15.

> process could also alter a rural ILEC's cash flow which could be problematic for some carriers.[29]

NECA is particularly concerned such an approach could affect the accuracy of pool settlements and interstate rate of return monitoring reports. Interstate Common Line Support (ICLS) and Local Switching Support (LSS) are essential components, respectively, of common line and traffic sensitive settlement computations. These cost recovery funds serve as pool revenue streams for companies participating in NECA's interstate access settlement process. Combining ICLS and LSS disbursements with other mechanisms might lead to inaccurate pool results and rate-of-return monitoring reports, by which the FCC monitors the performance of NECA's access charge revenue pools.[30] While simplification as a general matter is desirable, it appears more reasonable to leave existing disbursement mechanisms in place pending longer-term reform of universal service support programs.

B. *USAC's Policies and Procedures Should Be More Transparent and Allow Interested Parties to Comment*

Several commenters recommend the Administrator's policies and procedures become more transparent. Centennial, for example, stated "USAC's policies and procedures need to be reformed to make the organization more responsive to its customers and to make its operations more transparent and accountable."[31] IDT likewise

[29] OPASTCO and WTA at 13.

[30] To compute these reports, NECA needs ICLS and LSS payment details for each qualifying company so that these amounts may be factored into monthly settlement calculations. These amounts need to be identified in USAC-provided disbursement reports so that the payments may be reconciled for each pool participant to the applicable payment periods. In any given month, USAC may process payment changes affecting multiple prior payment periods and multiple high cost programs. A single uniform disbursement mechanism lacking these details would not permit such records to be maintained.

[31] Centennial at 2.

calls for "USAC's decisions to be made public" so others might know how USAC is interpreting the FCC's rules and administering them, and suggests the Commission require all of USAC's internal guidelines be made publicly available.[32] Qwest calls for the Commission to require USAC to publish all operating policies and procedures.[33]

Many commenters also supported the need for a more open process that would allow interested parties to provide input to the development of administrative policies and procedures. BellSouth, for example, called for the establishment of a process "for adopting new or modifying existing USAC procedures and policies that allows stakeholders to provide input."[34] NTCA urged the Commission to "establish and maintain an open process allowing interested parties to comment on consultation questions USAC submits to the FCC concerning interpretations of codified FCC universal service rules."[35] Sprint-Nextel suggests "[c]odification or at least publication of new processes, procedures, and FCC-USAC policy guidance prior to their implementation, all preceded by proper rulemaking processes whenever they go beyond existing Commission rules, will help to ensure all parties have equal knowledge of decisions made, and an opportunity to address problem areas in a timely way."[36]

NECA agrees it would be helpful for the Administrator to establish processes that enable it to take into account input and expertise from affected companies and their agents when setting policies and procedures. As a first step, requiring the Administrator to publish administrative procedures, not just a list of their titles, would help contributors,

[32] IDT at 8.

[33] Qwest at 4.

[34] BellSouth at 5.

[35] NTCA at 5.

[36] Sprint/Nextel at 4.

recipients and their agents assure reports and data submissions meet administrative specifications. The Commission might also consider the establishment of an Advisory Council or similar organization to assist the Administrator in identifying process and procedural issues relating to high cost mechanisms.[37] The Commission could also consider requiring the Administrator to include in its periodic filings a section on pending issues or questions, as this might assist program participants in identifying potential problems and facilitate helpful input from affected parties.

C. True-Up Processes in High-Cost Funds

USAC suggests the Commission consider prohibiting ongoing revisions to Part 36 data filed by NECA after national average cost per loop and study area cost per loop amounts are calculated.[38] USAC also suggests revisions to HCL support amounts would not be necessary if the Commission were to authorize an annual HCL true-up mechanism, similar to that used for LSS and ICLS support.[39] USAC further recommends the Commission's rules be amended to specify penalties if a carrier fails to provide data by specific deadlines or to retain data needed for audits.[40]

NECA agrees consistent FCC guidelines should apply for the timing of true-ups and corrections of ICLS, LSS, High Cost Loop and pool settlement data. It bears noting in this regard Commission rules generally do not specify particular time periods for

[37] In 2003, for example, the Administrator convened a Task Force to study ways to promote E-rate program compliance and reduce waste, fraud, and abuse. *See* Letter from Cheryl L. Parrino, USAC, to Marlene H. Dortch, FCC, CC Docket No. 02-6 (Nov. 26, 2003). In a similar vein, BellSouth (at 4) suggested that the Administrator periodically establish focus groups of stakeholders to assess the efficacy of USAC processes and test proposed procedures in advance of their implementation. See also NECA comments (at 16) describing TRS Advisory Council.

[38] USAC at 156.

[39] *Id.* at 157.

[40] *Id.*

carriers to correct errors and omissions to previously-submitted HCL cost data.[41] In a recent order relating to carrier-reported revenue data submitted for purposes of determining USF contributions, the Commission specified carriers have up to a year following initial reporting of actual revenues to correct their FCC Form 499 submissions – effectively providing a 27-month period to discover and correct adjustments.[42] An annual true-up mechanism similar to LSS and ICLS could be applied to HCL, provided a window be left open for a reasonable period to reflect NECA review findings and USAC or FCC-initiated changes to data. The Commission may wish to consider establishing consistent time frames and procedures for carriers to submit adjustments to other forms of cost and revenue data to correct errors and omissions after they are discovered.

With regard to Local Switching Support (LSS), USAC claims "[c]arrier-submitted LSS projections can lead to excess payments which amount to interest-free loans to carriers . . . . The problem of inaccurate projections is exacerbated when carriers fail to submit actual LSS true-up data by the deadline established in the rules."[43] As OPASTCO and WTA point out in their comments, however, "rural ILECs experience greater fluctuations in their investments and expenses than do larger ILECs, due in part to their lumpy investment patterns. This increases the likelihood rural ILECs' forecasts will

[41] The rules in some instances specify dates for correcting projections. *See, e.g.,* 47 C.F.R. § 54.903(a)(3). However, the rules do not address whether carriers may submit subsequent adjustments to correct errors or omissions once actual data for both ICLS and LSS have been filed with USAC.

[42] Federal-State Joint Board on Universal Service, CC Docket No. 96-45, 1998 Biennial Regulatory Review – Streamlined Contributor Reporting Requirements Associated with Administration of Telecommunications Relay Service, North American Numbering Plan, Local Number Portability, and Universal Service Support Mechanisms, CC Docket No. 98-171, Changes to the Board of Directors of the National Exchange Carrier Associations, Inc., CC Docket No. 97-21, *Order*, 20 FCC Rcd 1012 (2005), *recon. pending* (filed Jan. 10, 2005 by Qwest, Sprint, SBC, and BDP). Initial Form 499 revenue data is due by April 1 of the year following the study period. Thus, carriers have until March 31, 2005 to submit corrections to revenue data for calendar year 2003.

[43] USAC at 158.

deviate significantly from the costs they actually incur. Rural ILECs should not be required to pay interest as a result of good faith estimates that are subsequently found to be inaccurate."[44]

NECA agrees rural ILECs should not be required to pay interest as a result of good faith estimates subsequently found to be inaccurate. Rather than impose interest penalties, the Commission should consider allowing carriers to submit mid-year corrections to LSS projections, similar to those used for ICLS projections. Under the Commission's existing rules, carriers receive ICLS support funds and pool settlements on the basis of estimates, but are required to "true-up" these amounts by December of the subsequent year. ICLS projected data is submitted annually on March 31st of each year, but carriers are permitted to submit a correction to projected data through June 30th for each upcoming funding year and for the prior funding year. Final carrier data submissions for a calendar year occur on December 31st of the following year.

LSS projections, in contrast, are required to be submitted to the Administrator by October 1st of the year prior to the funding year, with one actual "true up" adjustment submitted 27 months after the initial estimate is filed. Until 2002, NECA provided and USAC accepted revised LSS projections based on updated data during the funding year. Because the rules do not specifically provide for such adjustments, USAC advised NECA in 2003 it would no longer accept such revisions. The Commission could easily resolve problems with LSS projections simply by allowing carriers to make interim adjustments

[44] OPASTCO and WTA at 14.

to their projections prior to the final true-up date (*e.g.* on June 30 in conjunction with ICLS interim adjustments).[45]

D. Red Light Rules

CenturyTel's comments explain in detail how erroneous imposition of "Red Light" holds on USF fund disbursements can impose accounting and financial burdens on program beneficiaries.[46] Such holds can interrupt vital universal service support payments for an indefinite period of time and cause companies to expend limited resources reconciling complex company and government payment records.

Sprint-Nextel's comments echo these concerns. According to Sprint-Nextel, various "glitches" in existing systems have caused serious operational problems for Sprint-Nextel that have been time-consuming and frustrating to resolve.[47] USTelecom similarly states "the Commission should re-evaluate and revise its rules so that recipients of USF support are not subjected to critical loss of support for ministerial errors . . .." [48]

As NECA suggested in its comments, allowing a grace period, e.g., 30 days, between the time a company is identified as having a potential payment delinquency and the time "red light" status is applied to universal service payments could help resolve this problem. Such intermediate "Yellow Light" warnings would allow companies time to rectify or clarify situations that appear to involve delinquencies but in fact represent computation or ministerial errors. Under this approach, USF payments would not be

[45] Such interim LSS adjustments should be permitted for both the current funding year and the prior funding year.

[46] Century Tel at 4 -5.

[47] Sprint-Nextel at 5.

[48] USTelecom at 7.

impacted until expiration of the grace period, i.e., after the status has moved from "Yellow" to "Red."

E. The Administrator Should Be Granted Reasonable Discretion to Accept Ministerial Corrections to Data Submissions and Waive Filing Deadlines as Necessary to Avoid Hardship.

Commenters agree the Administrator should not be required to impose harsh penalties on companies for minor errors associated with certifications and data submissions.[49] Since initial comments were filed in this proceeding, the Commission has been called upon to grant waivers to fourteen companies who failed to submit high cost data submissions on time despite having made reasonable efforts to comply with applicable deadlines, and has sought rounds of public comment on seven additional petitions for waivers of various rules establishing submission dates.[50] Absent such waivers, carriers may lose support for an entire quarter, or even longer, as a consequence of missing a filing date by as little as one day. This imposes unnecessary burdens both on the Commission and small companies, who must incur significant expense and

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[49] *See e.g.*, USTelecom at 6, GVNW at 18. *See also*, Comments of GVNW, CC Docket No. 96-45 (Dec. 2, 2005); Reply Comments of ICORE, Inc., CC Docket No. 96-45 (Dec. 9, 2005); Reply Comments of Northwest Dakota Cellular, et al., CC Docket No. 96-45 (Dec. 9, 2005).

[50] *See* Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Benton/Linn Wireless, LLC Petition for Waiver of Section 54.307(c) of the Commission's Rules, Highland Cellular, Inc. Petition for Waiver of Sections 54.307(c), 54.802(a), and 54.809(c) of the Commission's Rules, Louisa Communications, LLC Petition for Waiver of Section 54.802(a) of the Commission's Rules, Nebraska Technology & Telecommunications Petition for Waiver of Section 54.802(a) of the Commission's Rules, Northeast Iowa Telephone Company Petition for Waiver of Section 54.307(c) of the Commission's Rules, United States Cellular Corporation Petition for Waiver of Section 54.307(c) of the Commission's Rules, Unity Telephone Company d/b/a UniTel, Inc. Petition for Waiver of Section 54.904(d) of the Commission's Rules, Wapsi Wireless, LLC Petition for Waiver of Section 54.307(c) of the Commission's Rules, *Order*, DA 05-3111 (rel. Nov. 29, 2005); Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Alliance Communications Cooperative, Inc. and Hills Telephone Company, Inc., East Ascension Telephone Company, LLC, Columbus Telephone Company, Petitions for Waiver of Section 54.301 Local Switching Support Data Submission Reporting Date, *Order*, DA 05-3024 (rel. Nov, 22, 2005); Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Citizens Communications and Frontier Communications Petition for Waiver of Section 54.802(a) of the Commission's Rules, *Order*, DA 05-2829 (rel. Oct. 27, 2005). *See also*, Wireline Competition Bureau Seeks Comment on Petitions Requesting Waiver of Various Filing Deadlines related to the Universal Service Program, CC Docket No. 96-45, *Public Notice*, DA 05-3000 (rel. Nov. 18, 2005).

uncertainty associated with waiver proceedings, and who may be forced to put planned customer service improvements "on hold" pending resolution of administrative proceedings. The Commission can reduce if not eliminate these burdens by granting the Administrator reasonable discretion to accept ministerial corrections to data submissions and to waive filing deadlines so as to avoid hardship to program beneficiaries.

F. *Periodic Review of the Administrator to Ensure Customer Needs Are Being Met*

Commenters expressed strong support for periodic review of the USF Administrative function to ensure customer needs are being met. CTIA, for example, suggests a biennial review of USAC administrative procedures.[51] BellSouth suggests the performance measures for responsiveness and efficiency be established and the Administrator be held accountable for meeting these requirements.[52] Qwest likewise endorses the concept of periodic reviews.[53]

NECA agrees periodic administrative reviews would be helpful, and also recommended in its comments the Commission consider requiring the Administrator to obtain a Service Auditor's (SAS 70) Type II report from a qualified accounting firm each year.[54] Such reports would provide assurance to the Commission and interested members

[51] CTIA at 5.

[52] BellSouth at 11-12.

[53] Qwest at 34 ("The present review has been far too long in coming, and fund participants should be able to count on this type of thorough-going review at reasonable intervals. Regular reviews, combined with meaningful performance metrics, will allow the Commission to create and maintain a far more effective universal service program and management structure.)

[54] NECA at 22-23.

of the public as to Administrative control procedures and proper handling of program data and funds.[55]

NECA also suggested the Commission consider the establishment of an Advisory Council or similar organization to assist the Administrator in identifying process and procedural issues relating to high cost mechanisms, [56] and further suggested the Commission consider directing the Administrator to conduct annual independent surveys to measure overall customer satisfaction with the Administrator's performance.[57] Survey questions could be targeted to important areas such as responsiveness to customer inquiries and complaints, accuracy of support payments, sufficiency of payment information provided, and other service-related measures of interest to contributors and beneficiaries.[58] Such surveys can be useful tools for assessing administrative performance and provide an opportunity for program contributors and beneficiaries to voice concerns and express appreciation for service improvements as well.

IV. AUDIT PLANS SHOULD REASONABLY BE TARGETED TO HIGH RISK AREAS AND TAKE INTO ACCOUNT EXISTING DATA REVIEW PROCESSES

Virtually all commenters agree audit plans should be efficiently targeted so as not to impose unreasonable burdens on program beneficiaries.[59] A number of commenters also

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[55] Section 54.717 of the Commission's rules, 47 C.F.R. § 54.717, requires the Administrator to obtain annual audits but it does not specify a SAS 70 audit as described above.

[56] NECA at 16. NECA noted in this regard that the Administrator convened a Task Force in 2003 to study ways to promote E-rate program compliance and reduce waste, fraud, and abuse. *Id.*, *citing* Letter from Cheryl L. Parrino, USAC, to Marlene H. Dortch, FCC, CC Docket No. 02-6 (filed Nov. 26, 2003).

[57] *Id.* at 23.

[58] *See, e.g.*, the NANC's Performance Survey < http://www.fcc.gov/wcb/tapd/Nanc/finlsrvy.doc >

[59] *See, e.g.*, Qwest at 35-37 ("[T]he Commission should be sensitive to not imposing excessive or unnecessary costs and burdens on program participants."; "Audit selection should be related to the risk associated with USAC improperly awarding support, rather than the specific amount of support in

agreed the Commission should take into account the extent to which companies are subject to review by external independent auditors. In this regard, GVNW states "any proposed audit plans should be targeted and focused to high risk areas, and recognize that rural ILECs are already being reviewed and audited by independent external auditors, various other agencies, and the NECA."[60] OPASTCO and WTA likewise pointed out:

> Rural ILECs' financial data is already subject to several layers of oversight which make a broad independent audit requirement for these carriers superfluous. . . . With these multiple layers of review, requiring a rural ILEC to undergo a detailed audit, without just cause, would impose a disproportionate administrative burden that would far exceed any potential benefit. More importantly, it would divert their limited resources from the provision of high-quality service to rural customers, thereby hindering the achievement of the primary objective of high-cost support.[61]

USAC agreed as well duplicative audits and multiple audits of the same entities should be avoided: "USAC coordinates audit activity closely with the OIG staff and other bureaus and offices within the FCC. Also as part of audit planning, USAC considers the last time the beneficiary was audited to further avoid an unwarranted burden on applicants. An entity should not be subject to more than one audit per program for any program year unless a follow-up audit is required based on findings from an initial audit."[62]

NECA agrees significant efficiencies could be gained by relying on external auditors to undertake additional selective audits under FCC direction. Because a company's external auditors are already familiar with company operations, substantially less time is

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question.") USTelecom at 4 ("[T]here are no serious allegations of fraud, waste, and abuse in the High Cost and Low Income mechanisms and there is no need to implement additional auditing procedures for recipients of high-cost and low-income support."

[60] GVNW at 16.

[61] OPASTCO and WTA at 4-5.

[62] USAC at 211.

required for management to answer questions and assemble information for auditors, thereby reducing administrative burdens.

There was also widespread support in the comments for limiting audits to FCC rules and published USAC procedures.[63] USAC agreed "audits should cover compliance with Commission rules and USAC administrative procedures but that findings and recovery of funds should be based only on violations of rules or published procedures."[64] Several commenters also point out auditees should be given a reasonable opportunity to respond to findings. BellSouth, for example, recommended the Commission "should require an auditor to furnish the final report to audited entities within a reasonable timeframe (e.g. no more than 60 days) after conclusion of the audit."[65] Qwest elaborated "each service provider should receive a copy of the results of its audit. In addition, USAC should publish an annual report providing anonymous, aggregated data on audit results. Such a report would help identify general problems and overall trends with regard to each program, as well as provide evidence of the level of conformance with the stated goals of the USF."[66]

NECA agrees with these views and accordingly urges the Commission to develop audit plans reasonably targeted to high risk areas that avoid placing undue burdens on program participants, especially rate of return telephone companies who are subject to multiple audit and review requirements. Further, as NTCA points out, audit burdens imposed on ILECs and CETCs should be equivalent.[67]

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[63] *See, e.g.*, BellSouth at 20, Qwest at 35, USTelecom at 6.

[64] USAC at 209.

[65] BellSouth at 19.

[66] Qwest at 35.

[67] NTCA at 6.

V. Conclusion

The record in this proceeding shows that existing USF Administrative structures, including current rules governing submission of HCF data, should remain in place pending longer-term reform of universal service mechanisms. The Commission can, however, significantly improve administrative processes for existing HCF programs by adopting proposals advanced by several commenters. These include: increasing the amount of payment detail provided to program beneficiaries and their agents; adding transparency to administrative processes (including an opportunity for program participants and their agents to comment on proposed procedure changes); unifying true-up procedures for HCF data submissions; adding a "yellow light" warning period before "red light" holds are imposed on beneficiaries; finding ways to avoid time-consuming and costly waiver proceedings and imposition of draconian penalties on program participants for ministerial errors in data submissions; and instituting effective and efficient procedures to review the Administrator's performance on a periodic basis. Finally, the Commission should assure that audits of HCF recipients are reasonably targeted to high risk areas, take into account existing audit and data review processes that apply to ILECs, and fairly distributed between ILECs and other types of program participants.

Respectfully submitted,

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December 19, 2005

CERTIFICATE OF SERVICE

I hereby certify that a copy of NECA's Reply Comments was served this 19th day of December 2005, by electronic filing and e-mail to the persons listed below.

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